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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,850	07/16/2001	Shinichi Yoshinaga	107342-07002	7012
4372	7590	07/13/2007	EXAMINER	
ARENT FOX PLLC			APPLE, KIRSTEN SACHWITZ	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/904,850	YOSHINAGA ET AL.
	<b>Examiner</b> Kirsten S. Apple	<b>Art Unit</b> 3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 16 May 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-4,9,11 and 13-22 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-4,9,11 and 13-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## Detailed Action

This action is in response to the application response filed on 5-16-2007.

The finality of the office action of 1/16/07 has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

The Examiner has read and reviewed all of the information provided by the Applicant.

The examiner withdraws the rejection of claims 2-4, 9, 11 and 13-22 under 35 USC 102.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4, 9, 11 & 13-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller US Patent 5,235,509 in view of design choice

**Re claim 2:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, title)*

*POS terminal includes a display unit that displays a touch panel formed of plural keys (see Mueller, Figure 7)*

*Touching keys allotted to sets of articles on a touch panel (see Mueller, Figure 7)*

*To display and register the base item from a selected set (see Mueller, Figure 7)*

*To pop-up display an optional touch panel, each optional item corresponding to an individual option item in the selected set, with one item being selected (see Mueller, Figure 13, item 274, described in column 17, line 20-30)*

*Touching a selected one of the optional item keys (see Mueller, Figure 13, item 274, described in column 17, line 20-30)*

Although Mueller does not explicitly have 10-key unit the examiner claims official notice that a "10-key unit" for a ordering device is well know to one of ordinary skill in the art at the time of the invention.

Additionally, Mueller does not explicitly have a pop-up screen that happens simultaneously however it is a matter of design choice how the screen layout is design.

The underlining structure is identical and therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to add simultaneous pop-up screen as taught in design choice to Mueller.

It is clear that one would be motivated to minimize number of buttons a customer must push to complete an order.

**Re claim 3:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, title)*

*When set is ordered (see Mueller, Figure 7)*

*Displaying base item (see Mueller, Figure 7)*

*Pop-up display a touch panel corresponding to an individual optional item (see Mueller, Figure 13, item 274, described in column 17, line 20-30)*

*Selecting and registering a number of optional items (see Mueller, Figure 13, item 276-286, described in column 17, line 20-30)*

*Until after number of optional items reaches a predetermined value (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

*Holding pop-up display on display unit (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

**Re claim 4:** Mueller discloses:

*Holding pop-up display until number of optional items reaches a predetermined value (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

**Re claim 9:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, title)*

*Displaying a touch panel having: (see Mueller, Figure 7)*

*Memory key: first memory storing order information for which payment is complete, second memory key for which a payment is not complete (see Mueller, Figure 1, item 14)*

*First and second memory calling keys (see Mueller, Figure 1, item 14)*

*Displaying first screen to register an article (see Mueller, Figure 1, item 16)*

*Displaying second screen for payment (see Mueller, Figure 1, item 16)*

**Re claim 11:** Mueller discloses:

*A display unit for displaying a touch panel (see Mueller, Figure 7)*

*A first memory (see Mueller, Figure 1, item 14)*

*A second memory (see Mueller, Figure 1, item 16)*

*A control unit (see Mueller, Figure 1, item 112)*

*Touch panel (see Mueller, Figure 1, item 24)*

**Re claim 13:** Mueller discloses:

*When a plurality of items is selected (see Mueller, Figure 13, item 276-286, described in column 17, line 20-30)*

*Holding pop-up touch panel after reaches the sum (see Mueller, Figure 13, item 288, described in column 17, line 20-30)*

**Re claim 16:** Mueller discloses:

*A panel display method of an order receiving POS terminal (see Mueller, Figure 7)*

*Displaying an order inputting screen including an item key for registering ordered commodities (see Mueller, Figure 1, item 24), a first ten key section for inputting number of commodities, a statement display unit for displaying information about ordered commodities which are registered, and a first function key unit for executing functions*

*Displaying upon account process after completion an account screen including statement display unit, (see Mueller, Figure 8) a second ten key unit for inputting amount, a sum displaying section, deposit displaying section for display amount deposited money, and a second function key unit for executing each corresponding functions*

*Displaying after completed, another order inputting screen*

**Re claim 17:** Mueller discloses:

*An order receiving terminal comprising: (see Mueller, Figure 7)*

*A display unit (see Mueller, Figure 1, item 14)*

*A control unit (see Mueller, Figure 1, item 12)*

*The remaining details have similar limitation to claim 16 and would be reject on the same basis as claim 16.*

**Re claim 18:** Mueller discloses:

*A recording medium (see Mueller, Figure 1, item 46)*

*The remaining details have similar limitation to claim 16 and would be reject on the same basis as claim 16.*

**Re claim 14-15 & 19-22:**

The following claims listed below in the following format have duplicate content.

Therefore, the New Claim is rejected based on the information provided regarding Previous Claim.

14=13

15= 2+4

19=2

20 = 2

21 = 2

22 = 2

***Response to Arguments***

Applicant's arguments filed 5/16/07 have been fully considered but they are not persuasive.

In particular, and respect to Claim 1 the Applicant argued 1<sup>st</sup>: "Muller does not have 10-key unit"

The Examiner refutes the argument made by the Applicant and draws the attention to OFFICIAL NOTICE. Having a 10-key unit for inputting multiple items is well known to one of

ordinary skill in the art at the time of the invention. It is simply a matter of design choice as to including this design option in the key board layout.

Applicants argued 2<sup>nd</sup>, “Muller does not have a predetermined set”

The Examiner refutes the argument made by the Applicant and draws the attention to Muller Column 17, line 20-52 specifically line 29-31. The example of Muller has “special order options, such as extra ketchup, no ketchup...” If the example was a salad the “special order options would implicitly be a different example set. Therefore Muller clearly shows a predetermined set.

Applicants argued 3<sup>rd</sup>, “Muller pop-up menu is not simultaneous”

The Examiner refutes the argument made by the Applicant and argues the pop-up menu being “simultaneous” is simply a matter of design choice. If a customer is not going to choose an “option” from the “predetermined set” every time then this may be a hassle to the customer to have it pop-up “simultaneous.” Clearly since the structure is that “predetermined set” is connected with a base item – what order the screens are accessed for the customers convenience is a matter of design choice.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kirsten S. Apple whose telephone number is 571.272.5588. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-272-6126.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksa

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